

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2008-0270-IHW-E TCEQ ID: RN102599719 CASE NO.: 35397**  
**RESPONDENT NAME: VEOLIA ES TECHNICAL SOLUTIONS, L.L.C.**

Page 1 of 2

|  |  |   |
|--|--|---|
| <b>ORDER TYPE:</b>   |  |   |
| <input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>   | <input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>              | <input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>       |
| <input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>   | <input type="checkbox"/> <b>SHUTDOWN ORDER</b>                     | <input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b> |
| <input type="checkbox"/> <b>AMENDED ORDER</b>  | <input type="checkbox"/> <b>EMERGENCY ORDER</b>                    |   |
| <b>CASE TYPE:</b>  |  |   |
| <input type="checkbox"/> <b>AIR</b>  | <input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b> | <input checked="" type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>   |
| <input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>  | <input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>            | <input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>                  |
| <input type="checkbox"/> <b>WATER QUALITY</b>  | <input type="checkbox"/> <b>SEWAGE SLUDGE</b>                      | <input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>               |
| <input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>  | <input type="checkbox"/> <b>RADIOACTIVE WASTE</b>                  | <input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>                    |
| <input type="checkbox"/> <b>AGRICULTURE</b>  | <input type="checkbox"/> <b>USED OIL</b>                           | <input type="checkbox"/> <b>WATER RIGHTS</b>                                |
| <p><b>SITE WHERE VIOLATIONS OCCURRED:</b> 7665 Highway 73, Port Arthur, Jefferson County</p> <p><b>TYPE OF OPERATION:</b> industrial hazardous waste management facility</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is one additional pending enforcement action regarding this facility location (2006-0455-IHW-E; pending with SOAH).</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired February 9, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b></p> <p style="margin-left: 20px;">TCEQ Attorney: Ms. Jacquelyn Boutwell, Litigation Division, MC 175, (512) 239-5846<br/>Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019</p> <p style="margin-left: 20px;">TCEQ Enforcement Coordinator: Mr. Clinton Sims, Waste Enforcement Section, MC 128, (512) 239-6933</p> <p style="margin-left: 20px;">TCEQ SEP Coordinator: Ms. Sharon Blue, Litigation Division, MC 175, (512) 239-2233</p> <p style="margin-left: 20px;">TCEQ Regional Contact: Mr. Derek Eades, Beaumont Regional Office, MC R-10, (409) 898-3838</p> <p style="margin-left: 20px;">Respondent: Mr. Greig Siedor, Vice-President, Veolia ES Technical Solutions, L.L.C., P.O. Box 1238, Sheffield, MA 01257</p> |  |   |

**VIOLATION SUMMARY CHART:**

| VIOLATION INFORMATION   | PENALTY CONSIDERATIONS  | CORRECTIVE ACTIONS TAKEN/REQUIRED  |
|---|---|--|
| <p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint<br/><input checked="" type="checkbox"/> Routine<br/><input type="checkbox"/> Enforcement Follow-up<br/><input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b><br/>None</p> <p><b>Date of Investigation Relating to this Case:</b><br/>October 23, 2007</p> <p><b>Date of NOE Relating to this Case:</b><br/>December 21, 2007</p> <p><b>Background Facts:</b><br/>The EDPRP was filed June 27, 2008. The Respondent filed an answer and the case was referred to SOAH. The Agreed Order was signed December 5, 2008.</p> <p><b>Current Compliance Status:</b><br/>The Respondent is not yet in compliance.</p> <p><b>IHW:</b></p> <ol style="list-style-type: none"> <li>1. Failed to obtain authorization for the incineration and/or processing of hazardous waste not specified in the permit [30 TEX. ADMIN. CODE §§ 305.125(1) and 335.2(a) and (b), 40 CFR § 264.344(a), and Permit No. HW-50212, Sec. IV.B.3.c.].</li> <li>2. Failed to prevent the unauthorized discharge of industrial solid waste, as documented during an investigation [30 TEX. ADMIN. CODE §335.2(a)].</li> </ol> | <p><b>Total Assessed:</b> \$6,090</p> <p><b>Total Deferred:</b> \$3,045<br/><input type="checkbox"/> Expedited Order<br/><input type="checkbox"/> Financial Inability to Pay<br/><input checked="" type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid to General Revenue:</b> \$3,045</p> <p>The Respondent paid \$3,045 of the administrative penalty. The remaining amount of \$3,045 shall be conditionally offset by the completion of a Supplemental Environmental Project (SEP).</p> <p><b>Site Compliance History Classification</b><br/><input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b><br/><input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> | <p><b>Ordering Provisions:</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>1. Immediately, cease any unauthorized incineration and/or processing of hazardous waste, including explosives.</li> <li>2. Within 30 days properly remediate the discharge on the concrete floor of building 46 on row UI from roll-off box #3021.</li> <li>3. Within 45 days submit written certification demonstrating compliance.</li> </ol> <p>Implement and complete a Supplemental Environmental Project. (SEP) (See SEP Attachment A).</p> |

Attachment A  
Docket Number: 2008-0270-IHW-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

|                               |   |
|-------------------------------|---|
| <b>Respondent:</b>            | VEOLIA ES TECHNICAL SOLUTIONS, L.L.C.   |
| <b>Penalty Amount:</b>        | Six thousand ninety dollars (\$6,090)   |
| <b>SEP Offset Amount:</b>     | Three thousand forty-five dollars (\$3,045)   |
| <b>Type of SEP:</b>           | Pre-approved  |
| <b>Third-Party Recipient:</b> | <b>Jefferson County Waterway and Navigation District – Texas</b><br><i>Point Marsh Beneficial Use of Dredged Material Project</i> |
| <b>Location of SEP:</b>       | Jefferson County  |

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

**A. Project**

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to **Jefferson County Waterway and Navigation District** for the *Texas Point Marsh Beneficial Use of Dredged Material Project*. The SEP Offset Amount will be used to dredge spoil material to restore eight miles of shoreline within the Texas Point National Wildlife Refuge in Jefferson County, Sabine Pass, Texas. Specifically, SEP Funds will be used for the installation of an estimated 2,000,000 cubic yards of dredge spoil material along Sabine-Neches Waterway, as well as building up the jetties along the entrance to the Sabine Pass region and adding additional granite and dredge materials, which include rocks that will increase the base width and total height. Jefferson County Waterway and Navigation District will do sampling of the dredge spoilage beforehand to determine if human or environmental receptors will be adversely affected.

All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

**B. Environmental Benefit**

This SEP will provide a discernible environmental benefit by reducing and preventing the loss of property and natural habitat due to shoreline erosion, the re-establishment of a natural dune ridge system, the minimization

of storm damage to Texas Point National Wildlife Refuge habitats, and the re-establishment of a functional marsh ecosystem.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

Jefferson County Waterway and Navigation District SEP Fund  
Attention: Randy Reese, General Manager  
P.O. Box 778  
Nederland, Texas 77627

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Policy Revision 2 (September 2002)

## Penalty Calculation Worksheet (PCW)

PCW Revision January 29, 2008

|              |                 |            |                  |             |                |             |
|--------------|-----------------|------------|------------------|-------------|----------------|-------------|
| <b>DATES</b> | <b>Assigned</b> | 2-Jan-2008 | <b>Screening</b> | 18-Jan-2008 | <b>EPA Due</b> | 23-May-2008 |
|              | <b>PCW</b>      | 9-May-2008 |                  |             |                |             |

|  |                                       |
|--|---------------------------------------|
| <b>RESPONDENT/FACILITY INFORMATION</b> |                                       |
| <b>Respondent</b>                      | Veolia ES Technical Solutions, L.L.C. |
| <b>Reg. Ent. Ref. No.</b>              | RN102599719                           |
| <b>Facility/Site Region</b>            | 10-Beaumont                           |
| <b>Major/Minor Source</b>              | Major                                 |

|                          |                                |                          |                    |          |
|--------------------------|--------------------------------|--------------------------|--------------------|----------|
| <b>CASE INFORMATION</b>  |                                |                          |                    |          |
| <b>Enf./Case ID No.</b>  | 35397                          | <b>No. of Violations</b> | 2                  |          |
| <b>Docket No.</b>        | 2008-0270-IHW-E                | <b>Order Type</b>        | 1660               |          |
| <b>Media Program(s)</b>  | Industrial and Hazardous Waste | <b>Enf. Coordinator</b>  | Dana Shuler        |          |
| <b>Multi-Media</b>       |                                | <b>EC's Team</b>         | Enforcement Team 7 |          |
| <b>Admin. Penalty \$</b> | <b>Limit Minimum</b>           | \$0                      | <b>Maximum</b>     | \$10,000 |

## Penalty Calculation Section

|   |                   |         |
|---|-------------------|---------|
| <b>TOTAL BASE PENALTY (Sum of violation base penalties)</b> | <b>Subtotal 1</b> | \$3,500 |
|---|-------------------|---------|

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

|                           |                 |                                |         |
|---------------------------|-----------------|--------------------------------|---------|
| <b>Compliance History</b> | 74% Enhancement | <b>Subtotals 2, 3, &amp; 7</b> | \$2,590 |
|---------------------------|-----------------|--------------------------------|---------|

|              |  |
|--------------|--|
| <b>Notes</b> | Enhancement for three 1660 orders and seven NOV's for dissimilar violations. |
|--------------|--|

|                    |    |                |                   |     |
|--------------------|----|----------------|-------------------|-----|
| <b>Culpability</b> | No | 0% Enhancement | <b>Subtotal 4</b> | \$0 |
|--------------------|----|----------------|-------------------|-----|

|              |  |
|--------------|--|
| <b>Notes</b> | The Respondent does not meet the culpability criteria. |
|--------------|--|

|                                    |              |                   |     |
|------------------------------------|--------------|-------------------|-----|
| <b>Good Faith Effort to Comply</b> | 0% Reduction | <b>Subtotal 5</b> | \$0 |
|------------------------------------|--------------|-------------------|-----|

|               |            |                               |
|---------------|------------|-------------------------------|
|               | Before NOV | NOV to EDPRP/Settlement Offer |
| Extraordinary |            |                               |
| Ordinary      |            |                               |
| N/A           | X          | (mark with x)                 |

|              |   |
|--------------|---|
| <b>Notes</b> | The Respondent does not meet the good faith criteria. |
|--------------|---|

|                                   |         |  |                   |     |
|-----------------------------------|---------|--|-------------------|-----|
| <b>Total EB Amounts</b>           | \$47    | <b>0% Enhancement*</b>                   | <b>Subtotal 6</b> | \$0 |
| <b>Approx. Cost of Compliance</b> | \$1,000 | <i>*Capped at the Total EB \$ Amount</i> |                   |     |

|                             |                       |         |
|-----------------------------|-----------------------|---------|
| <b>SUM OF SUBTOTALS 1-7</b> | <b>Final Subtotal</b> | \$6,090 |
|-----------------------------|-----------------------|---------|

|   |    |                   |  |
|---|----|-------------------|--|
| <b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b> | 0% | <b>Adjustment</b> |  |
|---|----|-------------------|--|

Reduces or enhances the Final Subtotal by the indicated percentage.

|              |  |
|--------------|--|
| <b>Notes</b> |  |
|--------------|--|

|                             |         |
|-----------------------------|---------|
| <b>Final Penalty Amount</b> | \$6,090 |
|-----------------------------|---------|

|                                   |                               |         |
|-----------------------------------|-------------------------------|---------|
| <b>STATUTORY LIMIT ADJUSTMENT</b> | <b>Final Assessed Penalty</b> | \$6,090 |
|-----------------------------------|-------------------------------|---------|

|                 |              |                   |     |
|-----------------|--------------|-------------------|-----|
| <b>DEFERRAL</b> | 0% Reduction | <b>Adjustment</b> | \$0 |
|-----------------|--------------|-------------------|-----|

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

|              |  |
|--------------|--|
| <b>Notes</b> | Deferral not offered for non-expedited settlement. |
|--------------|--|

|                        |         |
|------------------------|---------|
| <b>PAYABLE PENALTY</b> | \$6,090 |
|------------------------|---------|

Screening Date 18-Jan-2008

Docket No. 2008-0270-IHW-E

PCW

Respondent Veolia ES Technical Solutions, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 35397

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN102599719

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Dana Shuler

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

| Component                     | Number of...   | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs                          | Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)  | 0                 | 0%      |
|                               | Other written NOVs   | 7                 | 14%     |
| Orders                        | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)   | 3                 | 60%     |
|                               | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0                 | 0%      |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)                                       | 0                 | 0%      |
|                               | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government  | 0                 | 0%      |
| Convictions                   | Any criminal convictions of this state or the federal government (number of counts)  | 0                 | 0%      |
| Emissions                     | Chronic excessive emissions events (number of events)  | 0                 | 0%      |
| Audits                        | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)              | 0                 | 0%      |
|                               | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)   | 0                 | 0%      |
| Please Enter Yes or No        |  |                   |         |
| Other                         | Environmental management systems in place for one year or more   | No                | 0%      |
|                               | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program  | No                | 0%      |
|                               | Participation in a voluntary pollution reduction program   | No                | 0%      |
|                               | Early compliance with, or offer of a product that meets future state or federal government environmental requirements  | No                | 0%      |

Adjustment Percentage (Subtotal 2) 74%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance History Notes

Enhancement for three 1660 orders and seven NOVs for dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 74%

Screening Date 18-Jan-2008

Docket No. 2008-0270-IHW-E

PCW

Respondent Veolia ES Technical Solutions, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 35397

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN102599719

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Dana Shuler

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and 335.2(a) and (b), 40 Code of Federal Regulations § 264.344(a), and Permit No. HW-50212, Sec. IV.B.3.c.

Violation Description

Failed to obtain authorization for the incineration and/or processing of hazardous waste not specified in their permit, as documented during an investigation conducted on October 23, 2007. Specifically, the Respondent did not receive authorization from the TCEQ for the incineration and/or processing of explosives (misfired gas generators). Approximately 12 misfired gas generators were incinerated at the facility.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

|           | Harm  |          |       |
|-----------|-------|----------|-------|
| Release   | Major | Moderate | Minor |
| Actual    |       |          |       |
| Potential |       |          |       |

Percent 0%

## &gt;&gt; Programmatic Matrix

|  | Falsification | Major | Moderate | Minor |
|--|---------------|-------|----------|-------|
|  |               | x     |          |       |

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

## Violation Events

Number of Violation Events 1

86 Number of violation days

|                            |              |   |
|----------------------------|--------------|---|
| mark only one<br>with an x | daily        |   |
|                            | monthly      |   |
|                            | quarterly    |   |
|                            | semiannual   |   |
|                            | annual       |   |
|                            | single event | x |

Violation Base Penalty \$2,500

One single event is recommended.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$24

Violation Final Penalty Total \$4,350

This violation Final Assessed Penalty (adjusted for limits) \$4,350



## Economic Benefit Worksheet

Respondent: Veolia ES Technical Solutions, L.L.C.

Case ID No. 35397

Reg. Ent. Reference No. RN102599719

Media: Industrial and Hazardous Waste

Violation No. 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Overtime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|----------------|-----------|
| No commas or \$  |           |               |            |     |                |                |           |

### Delayed Costs

|                          |       |             |            |     |      |     |      |
|--------------------------|-------|-------------|------------|-----|------|-----|------|
| Equipment                |       |             |            | 0.0 | \$0  | \$0 | \$0  |
| Buildings                |       |             |            | 0.0 | \$0  | \$0 | \$0  |
| Other (as needed)        |       |             |            | 0.0 | \$0  | \$0 | \$0  |
| Engineering/construction |       |             |            | 0.0 | \$0  | \$0 | \$0  |
| Land                     |       |             |            | 0.0 | \$0  | n/a | \$0  |
| Record Keeping System    |       |             |            | 0.0 | \$0  | n/a | \$0  |
| Training/Sampling        |       |             |            | 0.0 | \$0  | n/a | \$0  |
| Remediation/Disposal     |       |             |            | 0.0 | \$0  | n/a | \$0  |
| Permit Costs             |       |             |            | 0.0 | \$0  | n/a | \$0  |
| Other (as needed)        | \$500 | 23-Oct-2007 | 2-Oct-2008 | 0.9 | \$24 | n/a | \$24 |

Notes for DELAYED costs

Estimated cost to train and/or ensure that permit is followed and hazardous waste is handled/processed in an authorized manner.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

|                               |  |  |  |     |     |     |     |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal                      |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Personnel                     |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment            |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2]       |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3]    |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed)             |  |  |  | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$24

Screening Date 18-Jan-2008

Docket No. 2008-0270-IHW-E

PCW

Respondent Veolia ES Technical Solutions, L.L.C.

Policy Revision 2 (September 2002)

Case ID No. 35397

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN102599719

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Dana Shuler

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 335.2(a)

Violation Description

Failed to prevent the unauthorized discharge of industrial solid waste, as documented during an investigation conducted on October 23, 2007. Specifically, on the concrete floor of building 46 on row UI, a leak was observed from roll-off box #3021.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

| Release   | Major | Harm<br>Moderate | Minor |
|-----------|-------|------------------|-------|
| Actual    |       |                  |       |
| Potential |       |                  | x     |

Percent 10%

## &gt;&gt; Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
|               |       |          |       |

Percent 0%

Matrix  
Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective to human health and environmental receptors as a result of this violation.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 1

86 Number of violation days

|                            |              |   |
|----------------------------|--------------|---|
| mark only one<br>with an x | daily        |   |
|                            | monthly      |   |
|                            | quarterly    | x |
|                            | semiannual   |   |
|                            | annual       |   |
|                            | single event |   |

Violation Base Penalty \$1,000

One quarterly event is recommended from the October 23, 2007 investigation date to the January 18, 2008 screening date.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$24

Violation Final Penalty Total \$1,740

This violation Final Assessed Penalty (adjusted for limits) \$1,740

**Economic Benefit Worksheet**

**Respondent:** Veolia ES Technical Solutions, L.L.C.  
**Case ID No.:** 35397  
**Reg. Ent. Reference No.:** RN102599719  
**Media:** Industrial and Hazardous Waste  
**Violation No.:** 2

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Overtime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|----------------|-----------|
| No commas or \$  |           |               |            |     |                |                |           |

**Delayed Costs**

|                          |       |             |            |     |      |     |      |
|--------------------------|-------|-------------|------------|-----|------|-----|------|
| Equipment                |       |             |            | 0.0 | \$0  | \$0 | \$0  |
| Buildings                |       |             |            | 0.0 | \$0  | \$0 | \$0  |
| Other (as needed)        |       |             |            | 0.0 | \$0  | \$0 | \$0  |
| Engineering/construction |       |             |            | 0.0 | \$0  | \$0 | \$0  |
| Land                     |       |             |            | 0.0 | \$0  | n/a | \$0  |
| Record Keeping System    |       |             |            | 0.0 | \$0  | n/a | \$0  |
| Training/Sampling        |       |             |            | 0.0 | \$0  | n/a | \$0  |
| Remediation/Disposal     | \$500 | 23-Oct-2007 | 2-Oct-2008 | 0.9 | \$24 | n/a | \$24 |
| Permit Costs             |       |             |            | 0.0 | \$0  | n/a | \$0  |
| Other (as needed)        |       |             |            | 0.0 | \$0  | n/a | \$0  |

Notes for DELAYED costs

Estimated cost to properly remediate discharge. Date required is the date of the investigation and Final Date is the expected date of compliance.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

|                               |  |  |  |     |     |     |     |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal                      |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Personnel                     |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment            |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2]       |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3]    |  |  |  | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed)             |  |  |  | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$24

# Compliance History

Customer/Respondent/Owner-Operator: CN603069626 Veolia ES Technical Solutions, L.L.C. Classification: AVERAGE Rating: 5.64  
 Regulated Entity: RN102599719 VEOLIA PORT ARTHUR FACILITY Classification: AVERAGE Site Rating: 9.39

ID Number(s):

|   |                                  |              |
|---|----------------------------------|--------------|
| AIR OPERATING PERMITS                           | ACCOUNT NUMBER                   | JE0024D      |
| AIR OPERATING PERMITS                           | PERMIT                           | 1509         |
| INDUSTRIAL AND HAZARDOUS WASTE GENERATION       | EPA ID                           | TXD000838896 |
| INDUSTRIAL AND HAZARDOUS WASTE GENERATION       | SOLID WASTE REGISTRATION # (SWR) | 50212        |
| INDUSTRIAL AND HAZARDOUS WASTE STORAGE          | PERMIT                           | 50212        |
| INDUSTRIAL AND HAZARDOUS WASTE STORAGE          | PERMIT                           | 39012        |
| UNDERGROUND INJECTION CONTROL                   | PERMIT                           | WDW160       |
| UNDERGROUND INJECTION CONTROL                   | PERMIT                           | WDW358       |
| AIR NEW SOURCE PERMITS                          | PERMIT                           | 12785        |
| AIR NEW SOURCE PERMITS                          | PERMIT                           | 42450        |
| AIR NEW SOURCE PERMITS                          | PERMIT                           | 44590        |
| AIR NEW SOURCE PERMITS                          | PERMIT                           | 49820        |
| AIR NEW SOURCE PERMITS                          | ACCOUNT NUMBER                   | JE0024D      |
| AIR NEW SOURCE PERMITS                          | PERMIT                           | 51878        |
| AIR NEW SOURCE PERMITS                          | PERMIT                           | 50998        |
| AIR NEW SOURCE PERMITS                          | PERMIT                           | 73331        |
| AIR NEW SOURCE PERMITS                          | AFS NUM                          | 4824500118   |
| PUBLIC WATER SYSTEM/SUPPLY                      | REGISTRATION                     | 1230082      |
| WATER LICENSING                                 | LICENSE                          | 1230082      |
| IHW CORRECTIVE ACTION                           | SOLID WASTE REGISTRATION # (SWR) | 50212        |
| INDUSTRIAL AND HAZARDOUS WASTE COMPLIANCE PLANS | PERMIT                           | 50212        |

Location: 7665 HWY 73, PORT ARTHUR, TX, 77640 Rating Date: 9/1/2007 Repeat Violator: NO

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: January 22, 2008

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 22, 2003 to January 22, 2008

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Dana Shuler Phone: (512) 239-2505

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

## Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 08/29/2003

ADMINORDER 2002-0630-MLM-E

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.4  
TWC Chapter 26 26.121

Rqmt Prov: VI.A.1. PERMIT

Description: Failure to prevent three unauthorized discharges of hydrocarbons at the parking lot near the heavy equipment building.

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter A 335.9(a)(1)(G)

Rqmt Prov: VI.A.1. PERMIT

Description: Failure to document one satellite accumulation area of spent phosphoric acid (23%) at the lab's TOC analyzer.

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(1)  
40 CFR Chapter 263, SubChapter I, PT 263, SubPT C 264.15(c)

Rqmt Prov: VI.A.3. PERMIT  
VI.B.1 PERMIT

Description: Failure to remedy any deterioration of equipment (Tank 502) to ensure that a problem does not lead to an environmental or human health hazard.

Classification: Moderate

Citation: 30 TAC Chapter 335, SubChapter F 335.152(a)(1)  
40 CFR Chapter 263, SubChapter I, PT 263, SubPT C 264.17(b)  
5C THC Chapter 382, SubChapter A 382.085(a)

Rqmt Prov: III.B.7 PERMIT  
V.G. PERMIT  
VI.A.3. PERMIT  
VI.B.1. PERMIT

Description: Failure to take precautions at the Bulk Feed Building to prevent reactions which produce uncontrolled toxic mist, fumes, dusts, gases in sufficient quantities to threaten human health or the environment.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.7(a)  
Description: Failure to operate properly the Bulk Feed Building during normal facility operations all pollution emission capture equipment and abatement equipment.

Effective Date: 11/24/2005 ADMINORDER 2005-0039-IHW-E

Classification: Major

Citation: 30 TAC Chapter 335, SubChapter A 335.2(b)  
Description: Failure to properly dispose hazardous waste (D001, D003) at an authorized facility.

Effective Date: 03/23/2006 ADMINORDER 2004-1438-MLM-E

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: 5TAC Permit O-01509 OP  
Standard Permit Condition G PERMIT

Description: Failure to maintain an emission rate below the allowable emissions limits for carbon monoxide at the incinerator stack.

Classification: Moderate

Citation: 30 TAC Chapter 117, SubChapter B 117.219(f)(6)(B)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: HW 50212-001 PERMIT

Description: Failure to maintain and record the hours of operation of the deep well emergency generator (DWBKUP).

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter F 101.201(b)(7)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: HW 50212-001 PERMIT

Description: Failure to notify the regional office of a reportable emissions event.

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: General Terms and Conditions OP  
Standard Permit Condition G PERMIT

Description: Failure to maintain an emission rate below the allowable emissions limit for Hydrochloric acid (HCL), Sulphur Dioxide (SO2), Particulate Matter (PM) at the Incinerator stack.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

|   |            |          |
|---|------------|----------|
| 1 | 06/13/2003 | (29155)  |
| 2 | 08/28/2003 | (152898) |
| 3 | 08/28/2003 | (151514) |
| 4 | 08/28/2003 | (152893) |
| 5 | 11/13/2003 | (254550) |
| 6 | 11/20/2003 | (281073) |

|    |            |          |
|----|------------|----------|
| 7  | 12/08/2003 | (255353) |
| 8  | 12/18/2003 | (257655) |
| 9  | 02/13/2004 | (262514) |
| 10 | 04/15/2004 | (265978) |
| 11 | 04/16/2004 | (266020) |
| 12 | 04/20/2004 | (269201) |
| 13 | 05/11/2004 | (267462) |
| 14 | 05/19/2004 | (270468) |
| 15 | 07/08/2004 | (272300) |
| 16 | 07/19/2004 | (271957) |
| 17 | 08/17/2004 | (288580) |
| 18 | 08/26/2004 | (277008) |
| 19 | 09/08/2004 | (283802) |
| 20 | 10/20/2004 | (336088) |
| 21 | 12/23/2004 | (342977) |
| 22 | 01/14/2005 | (343612) |
| 23 | 03/04/2005 | (372799) |
| 24 | 03/11/2005 | (350190) |
| 25 | 03/22/2005 | (346934) |
| 26 | 04/06/2005 | (376393) |
| 27 | 05/24/2005 | (379321) |
| 28 | 06/17/2005 | (392465) |
| 29 | 07/19/2005 | (397345) |
| 30 | 07/27/2005 | (400457) |
| 31 | 07/28/2005 | (397902) |
| 32 | 08/10/2005 | (404180) |
| 33 | 08/11/2005 | (399866) |
| 34 | 08/29/2005 | (397031) |
| 35 | 12/20/2005 | (436654) |
| 36 | 12/21/2005 | (437069) |
| 37 | 02/14/2006 | (452571) |
| 38 | 03/10/2006 | (451540) |
| 39 | 04/04/2006 | (455622) |
| 40 | 04/13/2006 | (462592) |
| 41 | 04/17/2006 | (460956) |
| 42 | 04/21/2006 | (453560) |
| 43 | 05/12/2006 | (463257) |
| 44 | 06/23/2006 | (482284) |
| 45 | 06/23/2006 | (462809) |
| 46 | 06/23/2006 | (480987) |
| 47 | 07/20/2006 | (484801) |
| 48 | 08/22/2006 | (497231) |
| 49 | 08/29/2006 | (497549) |
| 50 | 09/21/2006 | (510383) |
| 51 | 01/30/2007 | (538192) |
| 52 | 02/23/2007 | (536084) |
| 53 | 02/23/2007 | (541486) |
| 54 | 04/03/2007 | (539847) |
| 55 | 04/03/2007 | (540119) |
| 56 | 04/25/2007 | (556979) |
| 57 | 04/25/2007 | (556014) |
| 58 | 04/25/2007 | (542516) |
| 59 | 04/26/2007 | (542829) |
| 60 | 06/08/2007 | (543729) |
| 61 | 07/02/2007 | (559068) |
| 62 | 09/14/2007 | (568173) |
| 63 | 10/12/2007 | (572822) |
| 64 | 11/20/2007 | (598262) |
| 65 | 11/20/2007 | (598654) |

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/28/2003 (151514)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)

Description: Failure by Onyx Environmental to ensure the good working condition and general appearance of the system's facilities and equipment.

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(C)(I)

Description: Failure by Onyx Environmental to verify the accuracy of manual disinfectant residual analyzer using chlorine solutions of known concentrations.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)  
 Description: Failure by Onyx Environmental to ensure the good working condition and general appearance of the system's facilities and equipment.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(1)  
 Description: Failure by Onyx Environmental to have flow measuring devices calibrated at least once every 12 months.  
 Date: 05/11/2004 (267462)  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(A)(ii)  
 Description: Failure to check the calibration of the benchtop pH meter with a buffer each time a series of samples is run.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(ii)  
 Description: Failure to check the calibration of the benchtop turbidimeter with secondary standards each time a series of samples is tested.  
 Self Report? NO Classification: Minor  
 Citation: 30 TAC Chapter 290, SubChapter F 290.118(b)  
 Description: Failure to provide water with a pH greater than 7.0.  
 Date: 08/30/2005 (397031)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
 30 TAC Chapter 122, SubChapter B 122.146(1)  
 5C THC Chapter 382, SubChapter A 382.085(b)  
 Rqmt Prov: OP O-01509  
 Description: Failure to submit an annual permit compliance certification within 30 days of the compliance period.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 113, SubChapter C 113.620  
 30 TAC Chapter 116, SubChapter B 116.115(a)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THC Chapter 382, SubChapter A 382.085(b)  
 Rqmt Prov: OP Genral Terms and Conditions  
 Description: Failure to submit to comply with all requirements of Federal Operating O-01509.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 113, SubChapter C 113.620  
 30 TAC Chapter 116, SubChapter B 116.115(a)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THC Chapter 382, SubChapter A 382.085(b)  
 Rqmt Prov: PA 42450 SC 17A  
 OP O-01509 1H  
 Description: Failure to comply with all requirements of Federal Operating Permit O-01509  
 Failure to comply with all requirements of Permit 42540  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
 30 TAC Chapter 122, SubChapter B 122.145(2)(A)  
 5C THC Chapter 382, SubChapter A 382.085(b)  
 Rqmt Prov: OP O-01509 General terms and conditions  
 Description: Failure to report all instances of all deviations.  
 Date: 02/23/2007 (536084)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(s)(2)(B)(iii)  
 Description: Failure to calibrate the online turbidimeter every 90 days with primary standards.  
 Date: 04/26/2007 (542516)  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Rqmt Prov: OP FOP-O-1509 Special Condition 11  
 PERMIT Permit 42450 Special Condition 17(A)  
 Description: Failure to maintain minimum kiln temperature of 1391 degrees Fahrenheit.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
 30 TAC Chapter 122, SubChapter B 122.143(4)  
 5C THC Chapter 382, SubChapter D 382.085(b)  
 Rqmt Prov: OP FOP-O-1509 Special Condition 11  
 PERMIT Permit 42450 Special Condition 8  
 Description: Failure to submit the semi-annual NESHAPS report as required by 40 CFR Part

63, Subpart DD and H in a timely manner.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(C)  
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failure to submit semi-annual deviation report for the period of October 21, 2005 through April 21, 2006, in a timely manner.

Date: 06/08/2007 (543729)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20(2)  
30 TAC Chapter 122, SubChapter B 122.143(4)  
40 CFR Part 61, Subpart FF 61.345(b)  
5C THC Chapter 382, SubChapter D 382.085(b)

Rqmt Prov: OP FOP-O-1509

Description: Failure to complete container inspections for the fourth quarter period of October 1, 2006, to December 31, 2006, in a timely manner.

Date: 11/20/2007 (598654)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)  
5C THC Chapter 382, SubChapter D 382.085(b)  
PERMIT Permit 42450 Special Condition 30

Description: Failure to maintain adequate documentation of alarm searches for continuous ambient hydrocarbon monitors 551, 553 and 554, as required by Special Condition 30.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
VEOLIA ES TECHNICAL  
SOLUTIONS, L.L.C.;  
RN102599719

§  
§  
§  
§  
§

BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2008-0270-IHW-E

I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Veolia ES Technical Solutions, L.L.C. ("Veolia") under the authority of TEX. WATER CODE chs. 7 and 26, Tex. Health & Safety Code ch. 361 and rules of the TCEQ. The Executive Director of the TCEQ, represented by the Litigation Division, and Veolia, appear before the Commission and together stipulate that:

1. Veolia owns and operates an industrial hazardous waste management facility located at 7665 Highway 73, in Port Arthur, Jefferson County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 361 and TCEQ rules.
3. The Commission and Veolia agree that the Commission has jurisdiction to enter this Agreed Order, and that Veolia is subject to the Commission's jurisdiction.
4. Veolia received notice of the violations alleged in Section II ("Allegations") on or about December 26, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Veolia of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of six thousand ninety dollars (\$6,090.00) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). Veolia has paid three thousand forty-five dollars (\$3,045.00) of the administrative penalty. Pursuant to TEX. WATER CODE § 7.067, three thousand forty-five dollars (\$3,045.00) of the administrative penalty shall be conditionally offset by Veolia's completion of a Supplemental Environmental Project (SEP) as defined in Attachment A, incorporated herein by reference. Veolia's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Veolia have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Veolia has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

During an investigation conducted on October 23, 2007, a TCEQ Regional Office investigator documented that Veolia violated:

- a. 30 TEX. ADMIN. CODE §§ 305.125(1) and 335.2(a) and (b), 40 CODE OF FEDERAL REGULATIONS § 264.344(a), and Permit No. HW-50212, Sec. IV.B.3.c., by failing to obtain authorization for the incineration and/or processing of hazardous waste not specified in their permit. Specifically, the Respondent did not receive authorization from the TCEQ for the incineration and/or processing of explosives (misfired gas generators). Approximately 12 misfired gas generators were incinerated at the facility.
- b. 30 TEX. ADMIN. CODE § 335.2(a), by failing to prevent the unauthorized discharge of industrial solid waste, as documented during an investigation. Specifically, on the

concrete floor of building 46 on row UI, a leak was observed from roll-off box #3021.

### III. DENIALS

Veolia generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Veolia pay an administrative penalty as set forth in Section I, Paragraph 6, above. The payment of this administrative penalty and Veolia's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here.
2. Veolia shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067 and as set forth in Section I, Paragraph 6, above. Three thousand forty-five dollars (\$3,045.00) of the assessed administrative penalty shall be offset with the condition that Veolia implement and complete the SEP pursuant to the terms of the SEP as defined in Attachment A, incorporated herein by reference. Veolia's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. Veolia shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Commission Order, cease any unauthorized incineration and/or processing of hazardous waste, including explosives (misfired gas generators), in accordance with 30 TEX. ADMIN. CODE §§ 305.125(1) and 335.2(a) and (b), 40 CODE OF FEDERAL REGULATIONS § 264.344(a), and Permit No. HW-50212, Sec. IV.B.3.c.;
  - b. Within 30 days after the effective date of this Commission Order properly remediate the discharge on the concrete floor of building 46 on row UI from roll-off box #3021, in accordance with 30 TEX. ADMIN. CODE § 335.2(a); and,
  - c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 3.a. through 3.b.. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Veolia shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 3.a. through 3.b. to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

and

Waste Section Manager  
Beaumont Regional Office  
Texas Commission on Environmental Quality  
3870 Eastex Freeway  
Beaumont, Texas 77703-1892

4. The provisions of this Agreed Order shall apply to and be binding upon Veolia. Veolia is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If Veolia fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Veolia's failure to comply is not a violation of this Agreed Order. Veolia shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Veolia shall notify the Executive Director within seven days after Veolia becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Veolia shall be made in writing to the Executive Director. Extensions are not effective until Veolia receives

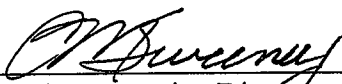
written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. This Agreed Order, issued by the Commission, shall not be admissible against Veolia in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes
9. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Veolia, or three days after the date on which the Commission mails notice of the Order to Veolia, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
For the Executive Director

1/15/2009  
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, indicated below by my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Veolia's compliance history;
- Greater scrutiny of any permit applications submitted by Veolia;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against Veolia;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Veolia; and
- TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution.

  
Signature

5 DEC 2008  
Date

GREIG R. SIEDOR  
Name (Printed or typed)

VICE PRESIDENT  
Title

Authorized representative of Veolia ES Technical Solutions, L.L.C.

**Attachment A**  
**Supplemental Environmental Project**

Attachment A  
Docket Number: 2008-0270-IHW-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** VEOLIA ES TECHNICAL SOLUTIONS, L.L.C.  
**Penalty Amount:** Six thousand ninety dollars (\$6,090)  
**SEP Offset Amount:** Three thousand forty-five dollars (\$3,045)  
**Type of SEP:** Pre-approved  
**Third-Party Recipient:** **Jefferson County Waterway and Navigation District – Texas**  
*Point Marsh Beneficial Use of Dredged Material Project*  
**Location of SEP:** Jefferson County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

**A. Project**

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to **Jefferson County Waterway and Navigation District** for the *Texas Point Marsh Beneficial Use of Dredged Material Project*. The SEP Offset Amount will be used to dredge spoil material to restore eight miles of shoreline within the Texas Point National Wildlife Refuge in Jefferson County, Sabine Pass, Texas. Specifically, SEP Funds will be used for the installation of an estimated 2,000,000 cubic yards of dredge spoil material along Sabine-Neches Waterway, as well as building up the jetties along the entrance to the Sabine Pass region and adding additional granite and dredge materials, which include rocks that will increase the base width and total height. Jefferson County Waterway and Navigation District will do sampling of the dredge spoilage beforehand to determine if human or environmental receptors will be adversely affected.

All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

**B. Environmental Benefit**

This SEP will provide a discernible environmental benefit by reducing and preventing the loss of property and natural habitat due to shoreline erosion, the re-establishment of a natural dune ridge system, the minimization



of storm damage to Texas Point National Wildlife Refuge habitats, and the re-establishment of a functional marsh ecosystem.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

Jefferson County Waterway and Navigation District SEP Fund  
Attention: Randy Reese, General Manager  
P.O. Box 778  
Nederland, Texas 77627

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.